

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

ITEM NO. 6

**TENTATIVE WASTE DISCHARGE REQUIREMENTS FOR THE
ENCINA WASTEWATER AUTHORITY
ENCINA WATER POLLUTION CONTROL FACILITY
AND SATELLITE WASTEWATER TREATMENT PLANTS
DISCHARGE TO THE PACIFIC OCEAN VIA THE ENCINA OCEAN OUTFALL**

RESPONSES TO COMMENTS FROM INTERESTED PARTIES

Comment #	Comment	Staff Response
<i>Comments from Encina Wastewater Authority contained in correspondence dated September 28, 2005.</i>		
1	<p><i>General Comment</i></p> <p><i>(Summarized from original)</i></p> <p>EWA objects to the provisions in the tentative order that require EWA to take responsibility for facilities and equipment independently owned or operated by its member agencies. EWA neither owns nor operates the Vallecitos Water District's Meadowlark Water Reclamation Plant ("VMWRP") or Vallecitos' land outfall. In addition, EWA does not own the Carlsbad Municipal Water District's Carlsbad Water Recycling Facility ("CWRF"), the Buena Sanitation District's currently inactive Shadowridge Water Reclamation Plant ("BSWRP"), nor the land outfalls for these facilities. EWA has agreements with Carlsbad Municipal Water District and Buena Sanitation District to operate the CWRD and BSWRP, respectively, but not the land outfalls. EWA contends that it cannot be held accountable for the VMWRP, CWRF, BSWRP or the associated land outfalls for the same reason that EWA is</p>	<p>Satellite facilities not owned or operated by EWA discharge effluent through EWA's Encina Ocean Outfall. The owners and operators of these satellite facilities are members of EWA and participate in the direction of EWA.</p> <p>EWA is responsible for ensuring compliance with all requirements and provisions of the tentative Order since EWA is the entity that submitted the Report of Waste Discharge and is the sole permittee. This responsibility includes ensuring that the effluent discharged complies with effluent limitations as well as ensuring the proper operation and maintenance of all facilities and systems of treatment and control installed or used to achieve compliance with the requirements of the Order. Under EWA's previous NPDES requirements, Order No. 2000-036, EWA also had the responsibility for ensuring compliance with all of that Order's requirements and provisions including those related to proper operation and maintenance. In the tentative Order, the Regional</p>

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	<p>not held accountable for wastewater collection systems which convey wastewater to the Encina Water Pollution Control Facility (“EWPCF”) that EWA does not own, operate or maintain. EWA contends that EWA lacks the jurisdictional authority to take responsibility for facilities owned or operated by Vallecitos or Carlsbad or Buena.</p> <p>EWA contends that the tentative order is replete with references (Sections III.(A), IV.(B), VI.(C), Attachment E, Section II. and Attachment F, Sections I, II, IV) to EWA’s compliance obligations for the VMWRP, CWRF, BSWRP or the associated land outfalls, without regard to whether it has any ownership or effective control over them.</p> <p>EWA requested that the tentative order be limited to the jurisdictional authority currently held by EWA in order to resolve the scope of the tentative order versus the authority of EWA.</p>	<p>Board is not proposing any changes to its current approach for regulating the facilities that can discharge to the EOO.</p> <p>EWA’s contention that EWA “has no ability to exercise any control” over the discharging satellite treatment facilities that it does not own or operate is incorrect. While EWA may lack legal “jurisdiction” over facilities owned or operated by Vallecitos, Carlsbad or Buena, as the agency responsible for all discharges through the EOO, including discharges from Vallecitos, Carlsbad and Buena, EWA has the ability to control waste streams for which it takes responsibility. As EWA indicates in Comment #3 and 5, legal agreements can be, and should have been, negotiated between EWA and the owners of the satellite facilities which would allow EWA to ensure compliance with the requirements and provisions of the tentative Order or otherwise indemnify EWA.</p> <p>The wastewater collection systems in the service areas of the wastewater treatment plants discharging to the EOO are not owned and operated by EWA, and the collection systems are excluded from the proper maintenance and spill reporting provisions of the tentative Order. The collection systems were similarly excluded from Order No. 2000-036. All of the collection systems tributary to the EWPCF and the EOO satellite treatment plants are regulated under this Regional Board’s Order No. 96-04, <i>General Waste Discharge Requirements Prohibiting Sanitary Sewer Overflows by Sewage Collection Agencies</i>.</p> <p>The collection systems are conceptually different from wastewater treatment plants because EWA, as an owner and operator of wastewater treatment facilities, is</p>

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		<p>still able to exercise considerable control over the influent raw wastewater from the collection systems once it enters the Encina Water Pollution Control Facility to ensure compliance with the permit requirements. In contrast, the satellite treatment plants are themselves facilities installed or used to achieve compliance with permit requirements (e.g., effluent limitations) and therefore subject to proper operation and maintenance and spill reporting provisions. To the extent that the collection systems are used to achieve compliance with the permit requirements, EWA is required to enforce the pretreatment program to ensure that industries discharging to the collection system do not impact a treatment plant process or the effluent quality.</p> <p>Language regarding EWA's "facilities" has been clarified to reflect the fact that EWA does not own or operate the satellite treatment plants and their associated land outfalls; please see the errata sheet. EWA, however, retains the responsibility for ensuring that all facilities that contribute to the discharge from EWA's ocean outfall are properly operated and maintained to meet all requirements of Order No. R9-2005-0219, NPDES No. CA0107395.</p> <p>The errata sheet will modify the tentative Order and Fact Sheet to replace the use of the phrase "Discharger's Facilities" with "EOO Facilities" where these occur.</p>

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2	<p><i>General Comment</i></p> <p>In the alternative, EWA can seek the additional authority necessary for it to assume responsibility for the additional facilities which the tentative order describes. EWA would need sufficient time - before issuance of the tentative order - to attempt to negotiate with the owners of these facilities regarding the allocation of responsibility for compliance with the obligations imposed by the tentative order. EWA cannot provide assurances, however, that such negotiations will be successful.</p>	<p>The Regional Board can set the effective date of the tentative Order to a date other than the date of adoption. To accommodate EWA's request, the effective date of the WDRs would be January 1, 2006 with an expiration date of January 1, 2011 if the tentative Order is adopted on October 12, 2005 with this change. The errata sheet to the tentative Order will indicate this new effective date. Until the effective date, EWA's previous NPDES requirements, Order No. 2000-036, would remain in effect.</p> <p>It should be noted that, as stated in the Regional Board's response to Comment #1, under Order No. 2000-036, EWA also has the responsibility for ensuring that all facilities contributing to the EOO, including the satellite facilities owned or operated by Vallecitos, Carlsbad and Buena, comply with all of that Order's requirements and provisions regarding proper operation and maintenance.</p>

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3	<p><i>General Comment</i></p> <p>As a matter of law, however, the tentative order exceeds the authority granted to the Regional Board. Pursuant to 40 CFR § 122.21(b), “When a facility or activity is owned by one person but is operated by another person, it is the operator’s duty to obtain a tentative order.” Owner or operator is defined as “the owner or operator of any ‘facility or activity’ subject to regulation under the NPDES program.” (40 CFR § 122.2.) At Section II.(B), the tentative order provides that each EWA member agency owns, operates and maintains its own wastewater collection system which conveys water to the EWPCF. It specifically states that the Vallecitos Water District independently owns and operates the VMWRP and Land Outfall, and the Buena Sanitation District independently owns the BSWRP and Land Outfall. As EWA neither owns nor operates these Facilities or collection systems, they must be excluded from the tentative order.</p>	<p>The Regional Board has not received applications for waste discharge requirement/NPDES permits from Buena Sanitation District, Vallecitos Water District, nor Carlsbad Municipal Water District for the discharge of wastes to the Pacific Ocean. On the other hand, EWA’s application does include the VMWRP, BSWRP and CWRP. Based on the application received, the waste discharge requirements contained in the tentative Order were developed, and the Regional Board correctly holds EWA responsible for ensuring that the satellite facilities comply with the requirements. The Regional Board is not requiring EWA to obtain ownership or control over these facilities; however, the EWA should have the contractual authority in place to enforce the requirements for these discharges.</p> <p>If VMWRP and CWRP are excluded from the tentative Order, then applications for separate NPDES permits/waste discharge requirements for the discharge of wastes to the Pacific Ocean for these facilities must be submitted. If excluded from the tentative Order and separate NPDES permits are not in place, VMWRP and CWRP must cease discharge to the Pacific Ocean or otherwise discharge without a permit if a discharge occurs. Note also that the WDRs for the production and distribution of recycled water for these treatment plants would need to be amended to address the inability to discharge excess treated effluent and other wastes to the ocean.</p> <p>The errata sheet will modify the tentative Order and the Fact Sheet to clearly indicate that although EWA does not own the satellite facilities, it is legally responsible for ensuring that those facilities comply with the requirements and provisions of the tentative Order.</p>

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4	<p><i>General Comment</i></p> <p>EWA is a joint powers authority which is governed by a joint powers agreement approved by its public agency members. As such, it has only the authority granted to it by the members in its governing documents. Currently, EWA has responsibility only for the "Joint System" which includes the ocean outfall and the EWPCF. It is permitted to operate additional facilities only with the approval of the member agency and the governing board of EWA.</p> <p>Given additional time, it is possible that EWA may be able to negotiate an expansion of its obligations with respect to the treatment facilities and pipelines owned by Vallecitos Water District and/or other members. EWA is prepared to seek an appropriate agreement with the member agencies.</p>	<p>Comment noted.</p>
5	<p><i>General Comment</i></p> <p>As currently written the tentative order expands EWA's responsibilities and liabilities beyond its jurisdictional authority. As such EWA cannot accept the tentative order as written. EWA requests that this Regional Board either limit the scope of EWA's permit to those structures and facilities over which it has jurisdictional authority or in the alternative, defer consideration of the tentative order for a period of 60 days during which EWA will seek to obtain sufficient jurisdictional authority to implement it.</p>	<p>As stated in the responses to Comment #1 and #3, EWA has had the same responsibility under its previous NPDES permit, Order No. 2000-036, as it will have under the tentative Order. Therefore, the tentative Order does not expand EWA's responsibilities and liabilities beyond those it has previously had under the previous permit.</p> <p>To partially accommodate EWA's request, the effective date of the tentative Order, if adopted on October 12, 2005, would be January 1, 2006.</p>

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6	<p><i>Tentative Order</i></p> <p>This permit becomes effective in the middle of a reporting period. Are the reporting requirements applicable beginning with the October monthly report, which is due December 1st or the November monthly report, which is due January 1st.</p>	<p>In response to Comment #6, the errata sheet includes a modification to the tentative Order which sets the effective date of the tentative Order as January 1, 2006.</p> <p>The first monthly report (for January 2006) will be due March 1, 2006.</p>
7	<p><i>Attachment C, Page C-3</i></p> <p>Does the RWQCB need a schematic for VMWRF? If so, current design or expansion design?</p>	<p>The Regional Board has located a schematic of the current treatment process at VMWRF in the Regional Board records. The errata sheet modifies Attachment C of the tentative Order to include the diagram of the current VMWRF schematic.</p>
8	<p><i>Attachment D, Page D-9</i></p> <p>Section F.3. Would an operational change to produce Class A biosolids trigger this requirement?</p>	<p>Per USEPA Region 9, an operational change such as this would trigger the notification-of-change requirement. While it might not result in changes to permit requirements, the regulatory authorities need to be notified because the focus of regulatory tracking may change. With Class A biosolids, there generally is not a need to track compliance in the field as there is with Class B, but there is more of a need to track compliance at the POTW to ensure that Class A level treatment is in fact being met at the POTW.</p>
9	<p><i>Fact Sheet, Page F-8</i></p> <p>Second Paragraph. This paragraph states that “the Regional Water Board maintains that the BSWRP should continue to be subject to the requirement of this Order although it is a non-operating wastewater treatment facility.” Requirements for this facility are not clearly identified in the order. Please clarify requirements (reports, inspections, etc.).</p>	<p>The errata sheet adds a sentence to the cited paragraph which clarifies which requirements apply to BSWRP. (secondary treatment, O&M, spills, inspection, monitoring)</p>

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10	<p><i>Tentative Order, Page 1</i></p> <p>The discharge point latitude is incorrect due to a typo in the prior NPDES permit that was carried over into EWA's NPDES permit application. The correct value is Latitude 33° 06' 33.59" N and Longitude 117° 20' 52.77" W.</p> <p>The new zip code is 92011.</p>	The errata sheet will modify the tentative Order to correct the outfall location latitude and longitude information and the facility address zip code.
11	<p><i>Tentative Order, Page 2</i></p> <p>Table of Contents lists "V.A. Bacterial Characteristics" as being on page 19 when it is on page 18.</p>	The errata sheet will modify the tentative Order to update the Table of Contents.
12	<p><i>Tentative Order, Page 5</i></p> <p>Please change sentence as follows "Dewatered treated sludge <u>is biosolids</u> are land applied in Arizona." This will more accurately reflect the treated state of the material.</p> <p>Please change sentence as follows "Attachment C provides a flow schematic of the Facility <u>facilities which can discharge through the EOO.</u>"</p>	The errata sheet will modify the tentative Order to include the suggested changes in wording.

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13	<p><i>Tentative Order, Pages 11 and 12</i></p> <p>IV.B Effluent Limitations and Performance Goals. EWA is required to report compliance with Table 7a and 7b effluent and performance goals to the number of significant figures listed in Tables 7a and 7b. Some of the effluent limits are expressed in terms of three significant figures and some of the listed effluent limits are expressed in terms of two significant figures. To be consistent, all listed values in Tables 7a and 7b should be expressed in terms of two significant figures, as follows:</p> <p>the average weekly CBOD effluent limit in Table 7a should be changed from 14.4E+03 to 1.4E+04,</p> <p>the average monthly TSS effluent limit in Table 7a should be changed from 10.8E+03 to 1.1E+04,</p> <p>the average weekly TSS effluent limit in Table 7a should be changed from 16.3E+03 to 1.6E+04, and</p> <p>the average weekly grease and oil limit in Table 7b should be changed from 14.4E+03 to 1.4E+04.</p>	<p>The errata sheet will modify the tentative Order to express the effluent limitations listed in the comment in terms of two significant figures.</p>
14	<p><i>Tentative Order, Page 21</i></p> <p>h. This statement appears to make each discharge facility responsible for operations and maintenance as prepared by the Discharger, who is EWA. This is confusing and unenforceable. Also see general note on the use of the term "Discharger's Facilities". Suggest changing the sentence as follows: "The Discharger's wastewater treatment facilities <u>that discharge through the EOO</u> shall be operated and maintained in accordance with the operations and maintenance manual prepared by the Discharger <u>each facility</u> pursuant to the Clean Water Grant Program."</p>	<p>The errata sheet will modify the tentative Order to restate this provision as requested with an additional minor change in wording.</p>

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15	<p><i>Tentative Order, Page 25</i></p> <p>d. Sanitary Sewer Systems and Sanitary Sewer Overflow Reporting Requirements. Please add a sentence noting that this section does not apply to the Discharger, EWA.</p>	<p>The errata sheet will modify the tentative Order to include a footnote to the cited provision which will indicate that EWA does not own a sanitary sewer system.</p> <p>The errata sheet will also modify the tentative Order to modify the sixth sentence of the paragraph under Facility Description on page 5 and the third sentence of the first full paragraph on page F-6 of the Fact Sheet to clearly indicate that EWA does not own any portion of a sanitary sewer system.</p>
16	<p><i>Tentative Order, Page 29</i></p> <p>5). It is redundant for EWA to submit both semiannual and annual reports on March 1; annual report requirements are summarized in Item 4). Suggest removing the semiannual report requirement for March 1.</p>	<p>The errata sheet will modify the tentative Order to remove the requirement to submit a semiannual report by March 1st for the July-December period.</p>
17	<p><i>Tentative Order, Page 35</i></p> <p>Compliance Determination VII.M. Some test results are not available within 15 days of sample collection. For clarity, the word “determining” should be added to the first sentence of the third paragraph of Section VII.M, as follows:</p> <p>If a toxicity effluent limitation or performance goal identified in section IV.B of this Order is exceeded, then within 15 days of <u>determining</u> the exceedance, the discharger shall conduct chronic and acute toxicity tests monthly for a 6-month period and provide the results to the Regional Water Board.</p>	<p>The errata sheet will modify the tentative Order to include the requested change.</p>

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18	<p><i>Tentative Order, Page 37</i></p> <p>Section VII.P.2. The referenced section of the Standard Provisions is incorrect. The referenced section E.5.b(2) should be changed to <u>V.E.2.b</u> as follows:</p> <p>A Discharger may assert SOU to limit liability only for those violations which the Discharger submitted notice of the upset as required in Provision E.5.b(2) <u>V.E.2.b</u> of Attachment D – Standard Provisions.</p>	<p>The errata sheet will modify the tentative Order to reference the correct provision.</p>
19	<p><i>Monitoring and Reporting Program, Page E-1</i></p> <p>The reference to Table 10 in the Table of Contents should be deleted, and Table 11 on page E-17 should be relabeled as Table 10.</p>	<p>The errata sheet will modify the tentative Order to correct the Table of Contents and the numbering of the table on page E-17.</p>
20	<p><i>Monitoring and Reporting Program, Page E-2</i></p> <p>I.E. Reference to IV is confusing; perhaps the reference should be VI.</p>	<p>The errata sheet will modify the tentative Order to clarify that the reference provision is Attachment D Provision IV Standard Provisions – Records.</p>
21	<p><i>Monitoring and Reporting Program, Page E-3</i></p> <p>On the row “Outfall 001” of Table 1, there should be a space between the words “BSWRP” and “can”.</p>	<p>The errata sheet will modify the tentative Order to make this correction.</p>
22	<p><i>Monitoring and Reporting Program, Page E-4</i></p> <p>3. Sampling stations are also picked by accessibility and employee safety. If EWA uses this device, note that the values will reflect historical locations.</p>	<p>Comment noted. The errata sheet will modify the tentative Order to indicated that if a positioning system is used to locate a station for a specific sampling event, then the discharger shall include a summary of the sampling location coordinates for each station for each reporting period.</p>

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23	<p><i>Monitoring and Reporting Program, Page E-5</i></p> <p>Section IV. Effluent Monitoring Requirements. The parenthetical reference to Endnotes being on page 17 should be revised to show that the Endnotes begin on page E-20.</p>	<p>The errata sheet will modify the tentative Order to make this correction.</p>
24	<p><i>Monitoring and Reporting Program, Page E-5</i></p> <p>IV. Effluent Monitoring Requirements. The daily requirement for CBOD₅ testing is more frequent than in the previous permit, which had 3 days/week. EWA is unaware of any technical or regulatory justification for this change, which would be costly for EWA.</p>	<p>The Regional Board did not intend to increase the frequency of CBOD₅ testing to “daily”. The errata sheet will modify the tentative Order to require testing three days per week.</p>
25	<p><i>Monitoring and Reporting Program, Page E-7</i></p> <p>Please change “3,3’-dichlorobenzidine” to “3,3-dichlorobenzidine”.</p>	<p>The correction is not necessary.</p>
26	<p><i>Monitoring and Reporting Program, Page E-8</i></p> <p>V. Whole Effluent Toxicity Testing Requirements. This section identifies Effluent Monitoring Station M-003 as the location for toxicity testing, however this is the effluent station for BSWRF. Please change the sentence as follows to accurately reflect toxicity testing at the outfall “Effluent Monitoring Station M-003 M-004”.</p>	<p>The errata sheet will modify the tentative Order to make this correction.</p>

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27	<p><i>Monitoring and Reporting Program, Pages E-8 and E-9</i></p> <p>Table 5. Footnote Nos. 1 and 2 of Table 5 should be changed to “a” and “b” to avoid cross reference to Endnotes Nos. 1 and 2 listed on page E-20.</p>	<p>The errata sheet will modify the tentative Order to change references to Footnotes 1 and 2 as “A” and “B”, respectively.</p>
28	<p><i>Monitoring and Reporting Program, Page E-10</i></p> <p>A.3. Surf Zone Water Quality Monitoring. This section identifies requirements for monitoring the mouth of the Buena Vista Lagoon; these requirements are duplicative with Oceanside’s permit and do not add value to the EOO monitoring program. Please modify the sentence as follows: “At the same time samples are collected . . . water temperature (F). and status of the mouth of the Buena Vista Lagoon (open, closed, flow, etc.)”</p> <p>B. Near Shore Water Quality Monitoring. Restart numbering so the first item begins with 1.</p>	<p>The reference to Buena Vista lagoon is an error and should have been Agua Hedionda lagoon. However, because the mouth of Agua Hedionda lagoon is always kept open, the requirement to report on the status of the lagoon mouth is not necessary. The errata sheet will modify the tentative Order to remove the requirement to report on the status of the lagoon mouth as requested.</p> <p>The errata sheet will modify the tentative Order to renumber the provisions under B. Near Shore Water Quality Monitoring.</p>
29	<p><i>Monitoring and Reporting Program, Page E-11</i></p> <p>The footnotes (Endnotes Nos. 5 and 11) within Table 7a should be shown in superscript font.</p>	<p>The errata sheet will modify the tentative Order to make these corrections.</p>
30	<p><i>Monitoring and Reporting Program, Page E-11</i></p> <p>B.2. Intensive Monitoring. Obtaining lab results and assembling the report for the intensive monitoring effort takes considerable time. The previous permit allowed until October 31st to submit the report to the RWQCB. This new permit gives until August 31st. Expediting the process increases costs and potential for error. Consider changing to October 31st.</p>	<p>The errata sheet will modify the tentative Order to make the requested change.</p>

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31	<p><i>Monitoring and Reporting Program, Page E-15</i></p> <p>H. Intensive Monitoring. EWA has been able to participate in the Bight Study in the past due to economies of scale enjoyed by having the study coincide with the intensive monitoring effort. Participating in the Bight during a period other than our intensive monitoring year is expensive and duplicative. Consider changing intensive monitoring year to match Bight Study schedule.</p>	<p>The errata sheet will modify the tentative Order to make the requested change to coincide the intensive monitoring year to the Bight Study year.</p> <p>Although the requested change is being made, the Regional Board intends to revisit the need for improved receiving water monitoring in the near future. Recently, the Southern California Coastal Waster Research Project (SCCWRP) provided the Regional Board guidelines for improving monitoring programs for the Region's ocean dischargers. The Regional Board will use these guidelines to make appropriate modifications to the receiving water monitoring programs. The Regional Board also intends to make the receiving water monitoring programs for the various ocean dischargers more consistent and equitable with each other.</p>
32	<p><i>Monitoring and Reporting Program, Page E-17</i></p> <p>Table 11 in VII.B.3 should be relabeled as Table 10, since there is no Table 10.</p>	<p>The errata sheet will modify the tentative Order to make these corrections.</p>
33	<p><i>Fact Sheet General Comment</i></p> <p>Million gallons per day is abbreviated "MGD" in Tentative Order No. R9-2005-0219 and "MGallons/Day" in many areas within the Fact Sheet. "MGD" should be used throughout both documents for consistency.</p>	<p>The errata sheet will modify the Fact Sheet to the tentative Order to make the requested changes.</p>
34	<p><i>Fact Sheet, Page F-3</i></p> <p>Reclamation Requirement. This is confusing to the reader since the EWA does not own or operate any reclamation facilities regulated under separate WDRs. Suggest</p>	<p>The errata sheet will modify the Fact Sheet of the tentative Order to indicate that the Meadowlark Water Reclamation Plant and the Carlsbad Water Recycling Facility produce and distribute recycled water regulated</p>

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	<p>clarifying the facilities to which this applies.</p> <p>The new zip code is 92011.</p>	under separate WDRs.
35	<p><i>Fact Sheet, Page F-3</i></p> <p>Please change the sentence as follows “The City of Carlsbad, a member agency of the EWA, Carlsbad Municipal Water District independently owns and operates the Carlsbad Water Recycling Facility (CWRP), a municipal POTW.” For clarification, the City of Carlsbad is a member agency of EWA, but the Carlsbad Municipal Water District owns and operates the CWRP.</p>	The errata sheet will modify the Fact Sheet of the tentative Order to make the requested change. It will further clarify that the Carlsbad Municipal Water District is a subsidiary of the City of Carlsbad which is a member agency of the EWA.
36	<p><i>Fact Sheet, Page F-6</i></p> <p>Please change the sentence as follows “The City of Carlsbad <u>Carlsbad Municipal Water District</u> independently owns and operates the Carlsbad Water Recycling Facility.” For clarification, the City of Carlsbad is a member agency of EWA, but the Carlsbad Municipal Water District owns and operates the CWRP.</p>	The errata sheet will modify the Fact Sheet of the tentative Order to replace “City of Carlsbad” with “Carlsbad Municipal Water District, a subsidiary of the City of Carlsbad”
37	<p><i>Fact Sheet, Page F-6</i></p> <p>Please change the sentence as follows “The Buena Sanitation District independently owns the Shadowridge Water Reclamation Plant (BSWRP) and land outfall <u>prior to connection with the VMWRF land outfall.</u>”</p>	The errata sheet will modify the Fact Sheet of the tentative Order to make the requested change.
38	<p><i>Fact Sheet, Page F-7</i></p> <p>“All solids removed from wastewater at EWPCF are treated at onsite to meet . . .”</p>	The errata sheet will modify the Fact Sheet of the tentative Order to make the correction.

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39	<p><i>Fact Sheet, Page F-9</i></p> <p>Table 2a. Please modify this table as follows: “City of Carlsbad <u>Carlsbad Municipal Water District</u> Carlsbad Water Recycling Facility (CWRF) Projected Design Flow Capacity (MGD) 2.0 <u>4.0</u>.”</p>	The errata sheet will modify the Fact Sheet of the tentative Order to make the requested change.
40	<p><i>Fact Sheet, Page F-10</i></p> <p>The discharge point latitude is incorrect due to a typo in the prior NPDES permit that was carried over into EWA’s NPDES permit application. The correct value is Latitude 33° 06’ 33.59” N and Longitude 117° 20’ 52.77” W.</p>	The errata sheet will modify the Fact Sheet of the tentative Order to correct the outfall location latitude and longitude information.
41	<p><i>Fact Sheet, Page F-11</i></p> <p>Table 4. This table shows the max TSS as 57.4 mg/l, but the following paragraph identifies a value of 93 mg/l. Please update table.</p>	The errata sheet will modify the Fact Sheet of the tentative Order to indicate that the maximum TSS value in Table 4 should be 93 mg/L.
42	<p><i>Fact Sheet, Page F-24</i></p> <p>Table 12. All of the performance goal concentration and mass emission numerical values listed in Table 12 of the Fact Sheet are incorrect, and should be changed to reflect the correct concentration and mass emission values that are listed in Section IV.B, Table 8 of Tentative Order No. R9-2005-0219.</p>	The errata sheet will modify the Fact Sheet of the tentative Order to include the correct performance goal concentration and mass emission numerical values listed in Table 12.

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43	<p><i>Fact Sheet, Page F-24</i></p> <p>Table 13. All of the performance goal concentration and mass emission numerical values listed in Table 13 of the Fact Sheet are incorrect, and should be changed to reflect the correct concentration and mass emission values that are listed in Section IV.B, Table 8 of Tentative Order No. R9-2005-0219. Additionally, the Table 13 column entitled “Effluent Limitation Monthly Average” should be deleted. Order No. R9-2005-0219 does not include effluent limitations for any of the constituents listed in Table 13, but instead establishes performance goals for each of the Table 13 constituents.</p>	<p>The errata sheet will modify the Fact Sheet of the tentative Order to include the correct numerical values as concentration and mass emission performance goals in Table 13. The column labeled “Effluent limitation monthly average” will be deleted.</p>
44	<p><i>Fact Sheet, Page F-32</i></p> <p>Change “CRF” to “CFR”.</p>	<p>The errata sheet will modify the Fact Sheet of the tentative Order to make the correction.</p>
45	<p><i>Fact Sheet, Page F-41</i></p> <p>3) Single operational defense. The reference to “Compliance Determination Section VII.Q of Order No. R9-2005-0219” should be changed to “Compliance Determination Section VII.P of Order No. R9-2005-0219”.</p>	<p>The errata sheet will modify the Fact Sheet of the tentative Order to make the correction.</p>
46	<p><i>Fact Sheet, Page F-42</i></p> <p>4) Twenty-four Hour Reporting Period. “Provision E.5(b)2 of Attachment D” should be changed to “Provision V.E.2.b of Attachment D”.</p>	<p>The errata sheet will modify the tentative Order to reference the correct provision.</p>

Comment #	Comment	Staff Response
<i>Comments from Vallecitos Water District contained in correspondence received October 5, 2005 at the Regional Board office.</i>		
47	<p>VWD would like to go on record objecting to the provisions in the Tentative Order which require the Encina Wastewater Authority ("EWA") to take responsibility over VWD's Meadowlark Water Reclamation Plant ("Meadowlark"). EWA has absolutely no ownership, control or legal jurisdiction over Meadowlark. VWD independently owns and operates Meadowlark, subject to Report of Waste Discharge Permit No. 93-23. A separate NPDES Permit appears to be in conflict and neither necessary nor appropriate.</p>	<p>VWD's Meadowlark Water Reclamation Plant (VMWRP) produces and distributes recycled water for recycled water use (primarily irrigation) which is regulated under this Regional Board's Order No. 93-23. Water recycling projects typically need to address the disposal of low quality effluent that does not meet Title 22 requirements for water recycling and also the disposal of excess recycled water. The EOO provides the VMWRP the ability to dispose of low quality effluent and excess recycled water. VMWRP typically disposes of wastes through the EOO to the Pacific Ocean several days a month. It is this discharge that is subject to regulation under an NPDES permit.</p> <p>Please also see responses to Comments #1-6 above.</p>
48	<p>Moreover, as noted in the letter to you dated September 28, 2005, from EWA Counsel Gregory Moser, the Tentative Order exceeds the authority granted to the Regional Board. Pursuant to 40 CFR Section 122.2.2 (sic), an Owner or operator is defined as "the owner or operator of any 'facility or activity' subject to regulation under the NPDES program." EWA is not the owner or operator of Meadowlark and therefore as a matter of law, the Tentative Order exceeds the Regional Board's authority.</p>	<p>All discharges to waters of the US, such as VWD's discharges through the EOO to the Pacific Ocean must be authorized under an NPDES permit. VWD has not submitted a separate application for an NPDES permit; however, EWA has included the discharge from VMWRP in its application/Report of Waste Discharge for an NPDES permit for discharges through the EOO to the Pacific Ocean.</p> <p>Under EWA's previous NPDES permit, Order No. 2000-036, EWA also had the responsibility for ensuring that VMWRP complied with all of that Order's requirements and provisions. In the tentative Order, the Regional Board is not proposing any changes to its current approach for regulating VMWRP's discharges through the EOO to the Pacific Ocean.</p> <p>If VMWRP is excluded from the tentative Order, then an</p>

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		<p>application for a separate NPDES permit/waste discharge requirements for the discharge of wastes to the Pacific Ocean for VMWRP must be submitted. If excluded from the tentative Order and separate a NPDES permit is not in place, VMWRP must cease discharge to the Pacific Ocean or otherwise discharge without an NPDES permit if a discharge occurs. Note also that the WDRs for the production and distribution of recycled water from VMWRP would need to be amended to address the inability to discharge excess treated effluent and other wastes to the ocean.</p>